

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

July 23, 2013

In the Matter of GARVELINK, Minors.

No. 313987

Kent Circuit Court

Family Division

LC No. 11-050733-NA

Before: MURPHY, C.J., and SAAD and SERVITTO, JJ.

PER CURIAM.

Respondent father appeals the trial court's order terminating his parental rights to the minor children under MCL 712A.19b(3)(a)(ii), (c)(i), and (g). For the reasons set forth below, we affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Regarding MCL 712A.19b(3)(a)(ii), the evidence showed that respondent last saw the children on May 14, 2012. After that date, he did not visit the children, contact the caseworker, respond to the caseworker's letters, or attend a hearing, until September 2012. This was a period exceeding 91 days. Thus, the trial court did not clearly err when it terminated respondent father's parental rights on the basis that he deserted the children for 91 days or more and did not seek custody of the children during that time. MCL 712A.19b(3)(a)(ii); *In re Trejo*, 462 Mich at 356-357.

Regarding MCL 712A.19b(3)(c)(i), the conditions that led to adjudication were substance abuse, domestic violence, and a lack of parenting skills. During the approximately 15 months respondent was offered services, he did not address these issues. He received referrals for substance abuse counseling, general counseling, AA/NA, and parenting classes, but did not attend. Services were arranged around respondent father's work schedule and he was told failure to participate would bar reunification. However, respondent failed to participate and made no progress in rectifying these conditions. Because he did not begin to address these issues during the case, there is no indication he could improve the conditions within a reasonable time, considering the ages of the children. Thus, the trial court did not clearly err in finding clear and convincing evidence that the conditions that led to adjudication continued to exist and there was no reasonable likelihood that they would be rectified within a reasonable time considering the ages of the children. MCL 712A.19b(3)(c)(i); *In re Trejo*, 462 Mich at 356-357.

Regarding MCL 712A.19b(3)(g), respondent did not provide care and custody for the children. During the case, he never secured housing appropriate for the children. He also failed to attend medical appointments or communicate with medical care providers or therapists to understand the needs of his children. One child required medical care on a daily basis and both children had behavioral issues. There was no indication that, given more time, respondent father would be able to provide proper care and custody. The trial court correctly ruled that clear and convincing evidence established that respondent did not provide proper care and custody for the children and there was no reasonable expectation that he would be able to do so within a reasonable time considering the ages of the children. MCL 712A.19b(3)(g); *In re Trejo*, 462 Mich at 356-357.

Respondent father also argues termination was not in the children's best interests. However, evidence established that termination of both respondents' parental rights was in the children's best interests. MCL 712A.19b(5). A child's need for stability and permanency may be considered in determining best interests. *In re VanDalen*, 293 Mich App 120, 141; 809 NW2d 412 (2011). Respondent father had a detached, strained, and chaotic relationship with the children. He did not take steps to understand the medical and behavioral needs of the children. His failure to participate in services, despite knowing this would bar reunification, demonstrated that the children were not a priority for him. Evidence showed the children needed permanency and stability, and no evidence showed that respondent could provide either for the children. The children were placed with their maternal grandmother, who provided permanency, stability, and made sure the children received all necessary care. While it was unclear if the maternal grandmother could care for the children long-term, and evidence showed she wanted the children's mother to move in—which was clearly not in the children's best interests—the record reflects that respondent father was incapable of providing any consistency for the children, and there was testimony that being separated for adoption would cause less harm to the children than being returned to respondent father's care. On this record, the trial court correctly ruled that termination was in the best interests of the children. MCL 712A.19b(5).

Affirmed.

/s/ William B. Murphy
/s/ Henry William Saad
/s/ Deborah A. Servitto